

Appl. No. : 10/614,650
Filed : July 7, 2003

REMARKS

In response to the Office Action transmitted November 8, 2007, Applicants respectfully request that the present application be reconsidered in light of the above amendments and the following remarks.

Independent Claim 21

The Examiner rejected independent Claim 21 under 35 U.S.C. § 103(a) as unpatentable over Hammerslag. Applicants respectfully traverse the rejection. Nevertheless, in order to speed prosecution and obtain allowance of the claim, Applicants have amended Claim 21 to further define over the cited art.

The Examiner cited col. 13, ll. 62-67 – col. 14, ll. 1-5 of Hammerslag to support the position that Hammerslag teaches, “The first distal opening is permanently maintained at a position distal of the second distal opening prior to advancement and release of patch 88” (see Office Action, page 4). Applicants have reviewed col. 13, ll. 62-67 – col. 14, ll. 1-5 of Hammerslag. This portion of the Hammerslag disclosure relates to putting a patch 88 on an applicator 80; it is unrelated to and makes no mention of any relationship between the first and second distal openings. Applicants submit that Claim 21 defines over Hammerslag.

Claim 21 has been amended to additionally recite a first connector adapted to provide access to the first lumen, and a second connector adapted to provide access to the second lumen. This additional recited structure, when considered in connection with the other recited structure, yet further defines Claim 21 over the cited reference. Applicants respectfully contend that Claim 21 is currently in condition for allowance.

Claims 10, 22, 24, 34 and 35 depend from Claim 21 and recite additional patentable subject matter. For example, Claim 10 further recites first and second portions that are rigidly connected to one another so as to always move as a single elongate unit. The Examiner admits that Hammerslag does not explicitly teach such structure (see Office Action, page 3); however the Examiner contends that Hammerslag teaches a sheath 250 and cannula 270 that can be integral and can move as a single unit, and thus it is obvious to modify Hammerslag to have first and second lumens that are integral.

Applicants respectfully traverse the Examiner’s contention. First, the Examiner points to col. 11, ll. 50-55, 60-66 to support the contention that Hammerslag teaches sheath 250 or cannula

Appl. No. : **10/614,650**
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270 being integral. However, this portion of Hammerslag specifically states, “the tubular sheath 250 is in one embodiment of the present invention modified by carrying an expander cannula 264 having an introducer cannula 270 slidably mounted thereon.” (col. 11, 60-63, emphasis added). Applicants submit that “slidably” is not the same as “integral”. Second, the Examiner has not pointed out how Hammerslag’s sheath 250 and cannula 270 teach or suggest, or can be compared to, the recited first and second lumens and associated recited structure.

Accordingly, Applicants contend that Claim 10 is patentable above and beyond the patentability of Claim 21 from which it depends.

Applicants contend that Hammerslag also does not teach or suggest the limitations added by Claims 22, 24, 34 and 35, which also depend from Claim 21, and that these claims are each patentable above and beyond the patentability of Claim 21. These claims are currently in condition for allowance.

New Claims

New Claims 35-41 have been added to more thoroughly recite subject matter considered to be part of the invention. These claims depend from allowable Claim 21 and recite additional patentable subject matter. Applicants submit that these claims are currently in condition for allowance.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
10/463,754	VASCULAR WOUND CLOSURE DEVICE AND METHOD	June 16, 2003
10/919,939	VASCULAR WOUND CLOSURE DEVICE AND METHOD	August 16, 2004
10/935,415	DRESSING DELIVERY SYSTEM FOR INTERNAL WOUNDS	September 7, 2004
11/544,793	VASCULAR WOUND CLOSURE DEVICE AND METHOD	October 5, 2006

Conclusion

Applicants respectfully submit that the rejections and objections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.


The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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